

AG Contract No.: KR04-1690TRN  
ADOT ECS File No.: JPA 04-080  
Section: Lake Mary Road @ I-17 Abandonment:  
TRACS No.: N/A  
BUDGET SOURCE Item No.: N/A

# INTERGOVERNMENTAL AGREEMENT

BETWEEN  
THE STATE OF ARIZONA  
AND  
CITY OF FLAGSTAFF

THIS AGREEMENT is entered into July 26, 2005, pursuant to Arizona Revised Statutes, Sections 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and the CITY OF FLAGSTAFF, acting by and through its MAYOR and CITY COUNCIL (the "City").

## I. RECITALS

1. The State is empowered by Arizona Revised Statutes Section 28-401 to enter into this Agreement and has delegated to the undersigned the authority to execute this Agreement on behalf of the State.

2. The City is empowered by Arizona Revised Statutes Section 9-240 to enter into this Agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this Agreement and has authorized the undersigned to execute this Agreement on behalf of the City.

3. The purpose of this Agreement is to abandon the section of Lake Mary Road as described herein and shown on Exhibits A and B, attached hereto and made a part hereof, and set forth the responsibilities of the parties hereto. The State will abandon a section of Lake Mary Road to the City upon approval of and by resolution of the State Transportation Board, upon execution of this Agreement. The parties hereto agree that the City will waive the requirements of Arizona Revised Statutes Section 28-7209 and accept ownership jurisdiction and maintenance responsibilities for the section of Lake Mary Road from Beulah Boulevard continuing underneath Interstate 17 (I-17) and ending just east of Anita Avenue at current City right of way, from Station 14+00 to Station 00+75 as shown on Exhibit B.

THEREFORE, in consideration of the mutual Agreements expressed herein, it is agreed as follows:

---

NO. 27042  
Filed with the Secretary of State  
Date Filed: 7/26/05  
Janice K. Brewer  
Secretary of State  
By: [Signature]

**II. SCOPE OF WORK**

## 1. The State shall:

a. Upon execution of this Agreement and upon approval of a resolution by the State Transportation Board, abandon to the City the following section of Lake Mary Road from Beulah Boulevard continuing underneath I-17 and ending just east of Anita Avenue, at the current City rights of way, from Station 14+00 to Station 00+75, as shown on Exhibit B. This section of Lake Mary Road to be abandoned by the State lies within Section 28, Township Twenty-one North, and Range Seven East.

b. Reserve a perpetual maintenance easement to perform routine maintenance and inspections on the I-17 bridge structures and appurtenances over Lake Mary Road.

c. Agree that this Agreement is per Plans No. I-40-3-801.

## 2. The City shall:

a. Upon execution of this Agreement and upon approval of a resolution by the State Transportation Board, accept ownership jurisdiction and maintenance responsibilities from the State for the following section of Lake Mary Road from Beulah Boulevard continuing underneath I-17 and ending just east of Anita Avenue at the current City rights of way, from Station 14+00 to Station 00+75, as shown on Exhibit B. This section of Lake Mary Road to be accepted by the City lies within Section 28, Township Twenty-one North, and Range Seven East.

b. Grant the State a perpetual maintenance easement to perform routine maintenance and inspections on the I-17 bridge structures and appurtenances over Lake Mary Road, as shown on Exhibit B. Ensure that the rights of way are free of obstructions or encroachments to the extent necessary to allow routine maintenance and inspections as described herein.

c. Agree that this Agreement is per Plans No. I-40-3-801.

d. Waive the requirements of Arizona Revised Statutes Section 28-7209.

**III. MISCELLANEOUS PROVISIONS**

1. This Agreement shall become effective upon filing with the Secretary of State, and upon approval and resolution of the State Transportation Board. This Agreement shall terminate upon completing the transfer of Lake Mary Road as referenced herein, except for provisions of Article II 1.b. above, which shall survive in perpetuity for the State to perform routine maintenance and inspections on the I-17 bridge structures and appurtenances over Lake Mary Road.

2. This Agreement may be cancelled in accordance with Arizona Revised Statutes Section 38-511.

3. The provisions of Arizona Revised Statutes Section 35-214 are applicable to this Agreement.

4. Non-Discrimination. This Agreement is subject to all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) and all applicable federal regulations under the Act, including 28 CFR Parts 35 and 36. The parties to this Agreement shall comply with Executive Order Number 99-4 issued by the Governor of the State of Arizona, and incorporated herein by reference regarding "Non-Discrimination".

5. Non-Availability of Funds: Every payment obligation of ADOT under this Agreement is conditioned upon the availability of funds appropriated or allocated for the payment of such obligation. If funds are not allocated and available for the continuance of this Agreement, this Agreement may be terminated by ADOT at the end of the period for which the funds are available. No liability shall accrue to ADOT in the event this provision is exercised, and ADOT shall not be obligated or liable for any future payments or for any damages as a result of termination under this paragraph.

6. All notices or demands upon any party to this Agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

Arizona Department of Transportation  
Joint Project Administration  
205 South 17th Avenue, Mail Drop 616E  
Phoenix, AZ 85007  
FAX: (602) 712-7424

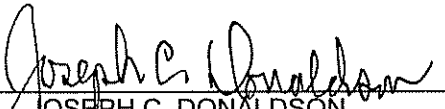
City of Flagstaff  
City Manager  
211 West Aspen Avenue  
Flagstaff, AZ 86001-5399

7. In accordance with Arizona Revised Statutes Section 11-952.D., attached hereto and incorporated herein, is the written determination of each party's legal counsel that the parties are authorized under the laws of this State to enter into this Agreement and that the Agreement is in proper form.

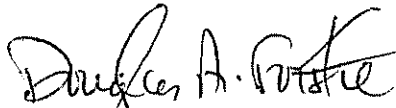
IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first above written.

---


**CITY OF FLAGSTAFF**

By   
JOSEPH C. DONALDSON  
Mayor

**STATE OF ARIZONA**  
Department of Transportation

By   
DOUGLAS A. FORSTIE, P.E.  
Deputy State Engineer

ATTEST

By   
MARGIE BROWN, CMC  
City Clerk

**CERTIFICATION**

I, LAURA MATTHEWS, Acting City Clerk of the City of Flagstaff, Arizona, do hereby certify that the attached is a full, true, and correct copy of Resolution No. 2005-71 adopted by the Flagstaff City Council at their Meeting held June 21, 2005.

IN WITNESS WHEREOF, I have hereunto set my hand and impressed the official Seal of the City of Flagstaff, this 30th day of June, 2005.

Laura Matthews  
ACTING CITY CLERK

(SEAL)

RESOLUTION NO. 2005-71

A RESOLUTION APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE STATE OF ARIZONA ("STATE") AND THE CITY OF FLAGSTAFF ("CITY") FOR TRANSFERRING OWNERSHIP AND MAINTENANCE RESPONSIBILITY FROM THE STATE TO THE CITY FOR A SECTION OF LAKE MARY ROAD LOCATED FROM BEULAH BOULEVARD TO JUST EAST OF ANITA AVENUE.

WHEREAS, the State, upon approval by resolution of the State Transportation Board, desires to abandon ownership jurisdiction and maintenance responsibility to the City for a section of Lake Mary Road right-of-way located from Beulah Boulevard to just east of Anita Avenue; and

WHEREAS, the City desires to accept ownership jurisdiction and maintenance responsibility for said section of Lake Mary Road right-of-way; and

WHEREAS, the State also desires to reserve a perpetual maintenance easement on City right-of-way located along Lake Mary Road for the State's inspections and maintenance of Interstate 17 bridge structures and appurtenances; and

WHEREAS, the State and the City desire to enter into an intergovernmental agreement ("IGA") providing for the responsibilities of the State and the City in effecting the transfer of ownership jurisdiction and maintenance responsibility for said section of Lake Mary Road right-of-way; and

WHEREAS, the State Department of Transportation and the City's Public Works Department desire to obtain City Council approval for the City's entry into the IGA; and

WHEREAS, the City Council has reviewed the proposed IGA and finds that it is in the best interests of the City to enter into the IGA with the State.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FLAGSTAFF AS FOLLOWS:

SECTION 1. That the Intergovernmental Agreement between the State and the City submitted as an attachment to the Staff Summary Report in support hereof be hereby approved, and the Mayor be authorized and directed to execute the Intergovernmental Agreement on behalf of the City of Flagstaff.

PASSED AND ADOPTED by the City Council and approved by the Mayor of the City of Flagstaff this 21st day of June, 2005.

Joseph C. Donaldson  
MAYOR

ATTEST:

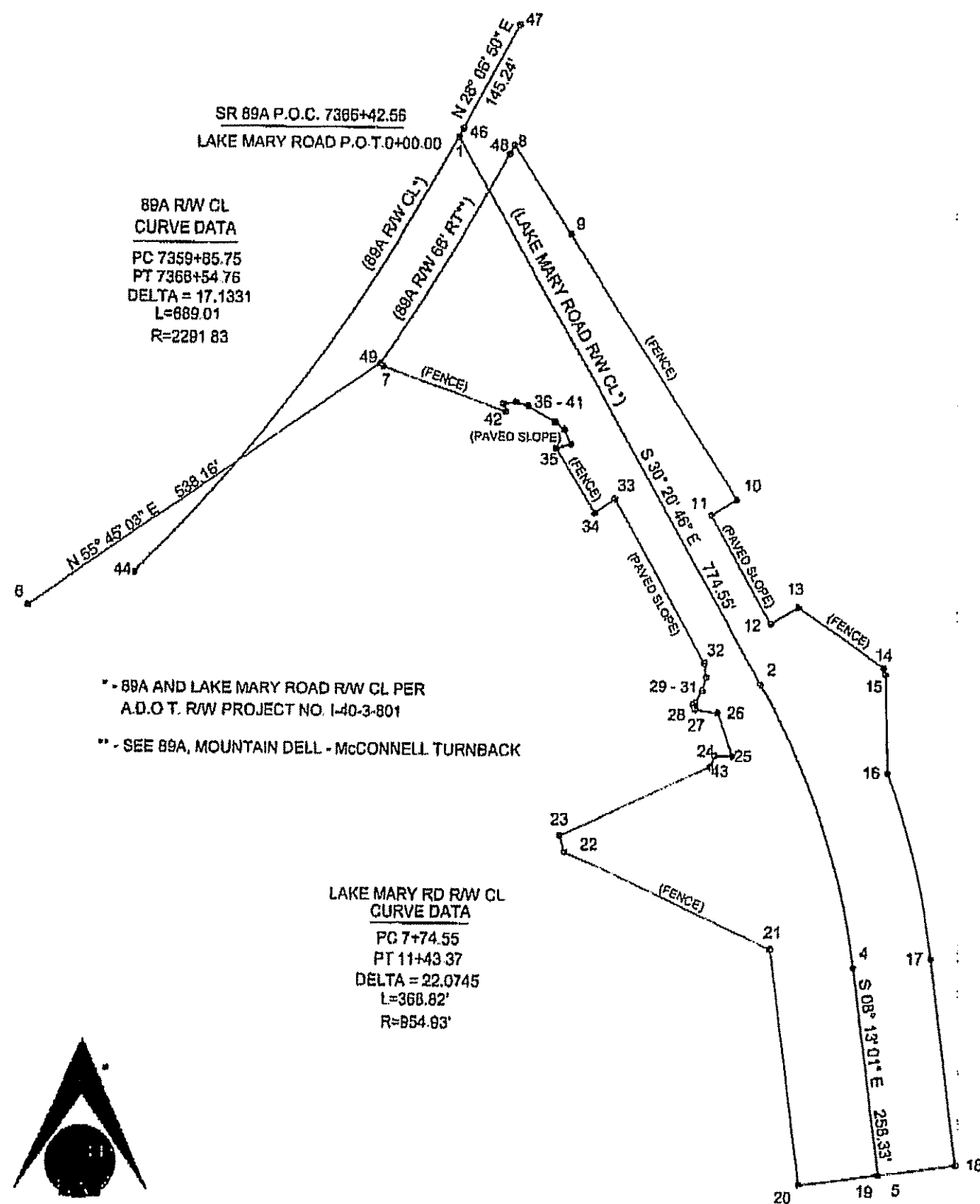
Laura Matthews for  
CITY CLERK

APPROVED AS TO FORM:

Anthony J. Martin (for)  
CITY ATTORNEY

# LAKE MARY ROAD RIGHT-OF-WAY TURNBACK (A.D.O.T. TO CITY OF FLAGSTAFF)

FIELD SURVEY DATE: 6 - 27 - 2003  
TOTAL TURNBACK AREA: 6.12 ACRES

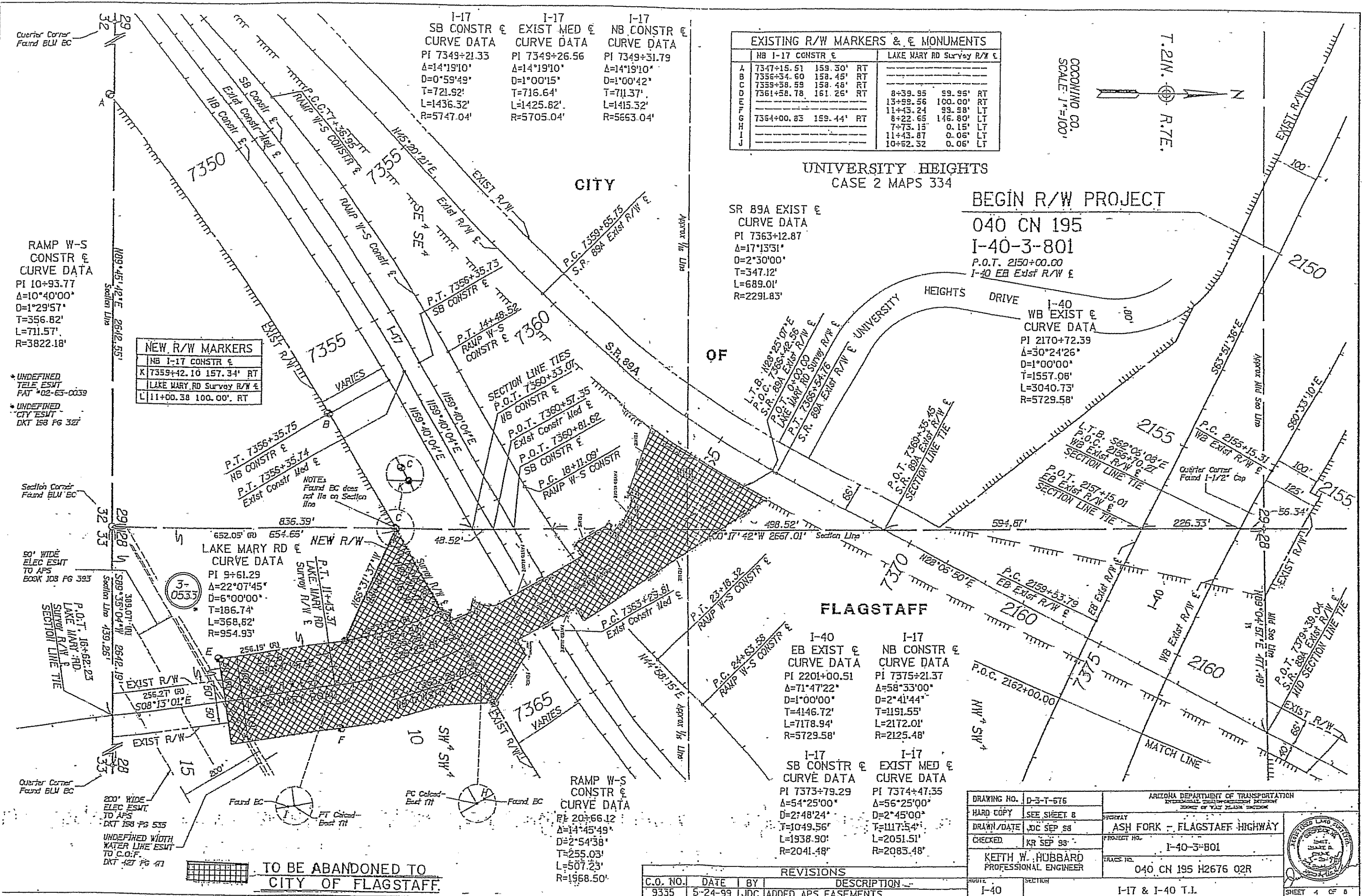


LAKE MARY ROAD RIGHT-OF-WAY TURNBACK  
(A.D.O.T. TO CITY OF FLAGSTAFF)

BOUNDARY CLOSURE  
FIELD SURVEY DATE: 6-27-2003

FROM POINT NO.	TO POINT NO.	BEARING (DIR DEG.MINSEC)	HORIZ. DISTANCE (FT)
6	49	NE 55.4503	538.16
49	48	NE 31.4901	304.57
48	8	NE 28.0653	12.45
8	9	SE 33.4113	130.24
9	10	SE 33.4113	388.69
10	11	SW 58.2807	38.08
11	12	SE 30.1755	153.38
12	13	NE 59.1854	40.23
13	14	SE 56.2536	130.49
14	15	SE 16.5015	9.09
15	16	SE 1.5850	121.17
15	17	SE 14.2949	234.82
17	18	SE 8.0051	256.24
18	5	SW 81.5338	99.02
5	19	SW 81.4659	0.79
19	20	SW 81.5529	100.04
20	21	NW 8.1018	293.66
21	22	NW 66.2347	286.78
22	23	NW 16.2112	20.72
23	43	NE 64.5909	209.40
43	24	NE 21.5913	14.95
24	25	SE 89.5623	22.38
25	26	NW 20.3418	56.07
26	27	NW 81.5555	28.30
27	28	NW 31.3657	6.13
28	29	NE 52.4826	3.38
29	30	NE 29.6939	17.62
30	31	NE 13.3619	17.82
31	32	NW 7.0341	17.51
32	33	NW 30.1304	232.15
33	34	SW 55.0515	31.67
34	35	NW 31.4640	93.20
35	36	NE 72.4807	19.06
36	37	NW 26.2248	19.08
37	38	NW 50.0535	15.03
38	39	NW 60.2338	39.84
39	40	NW 75.1820	15.57
40	41	SW 82.2240	15.80
41	42	SE 14.1541	9.58
42	7	NW 70.4218	164.46
7	49	NW 54.3208	5.25
49	6	SW 55.4503	538.16
JFD 7-8-2003			

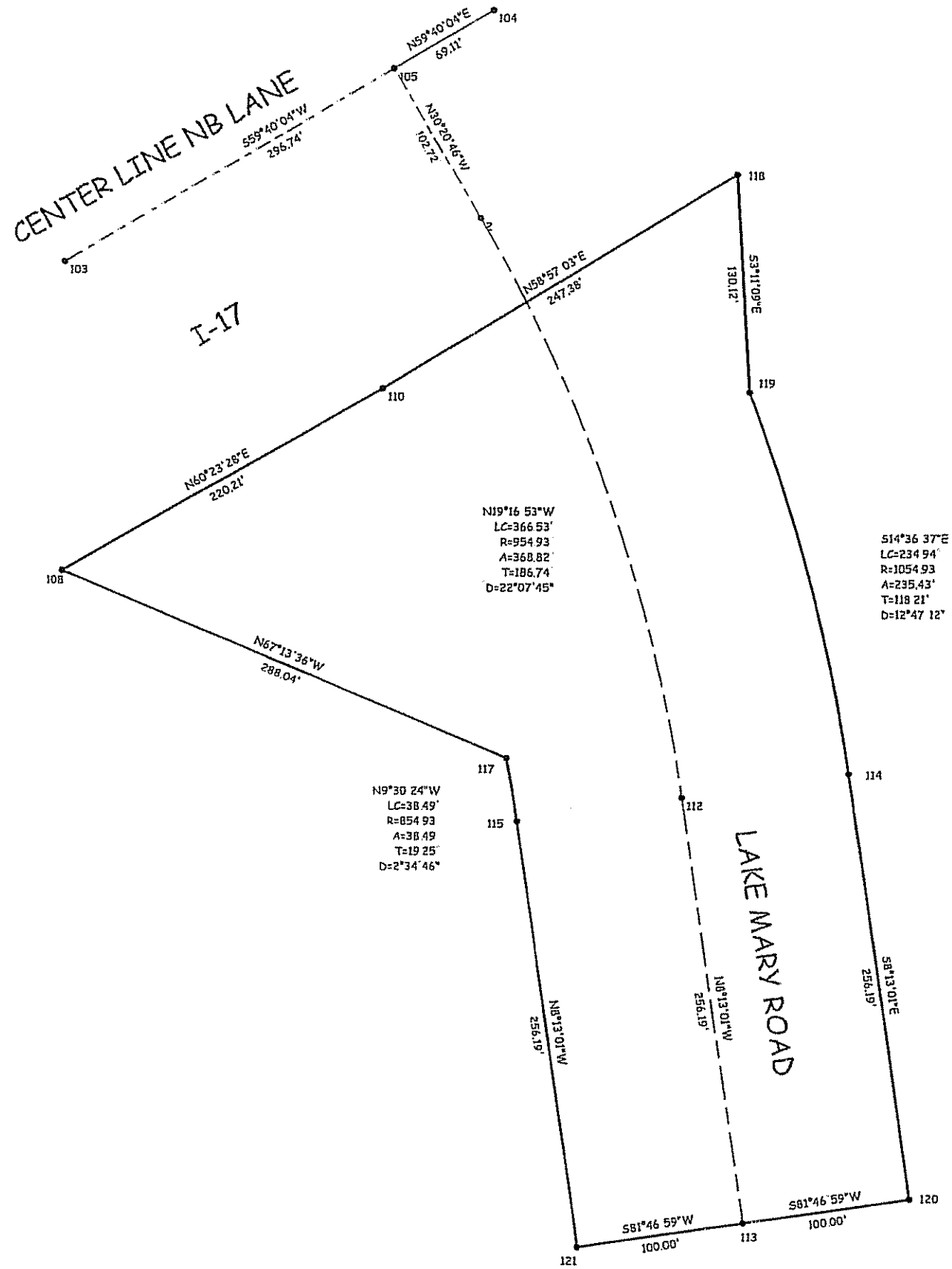




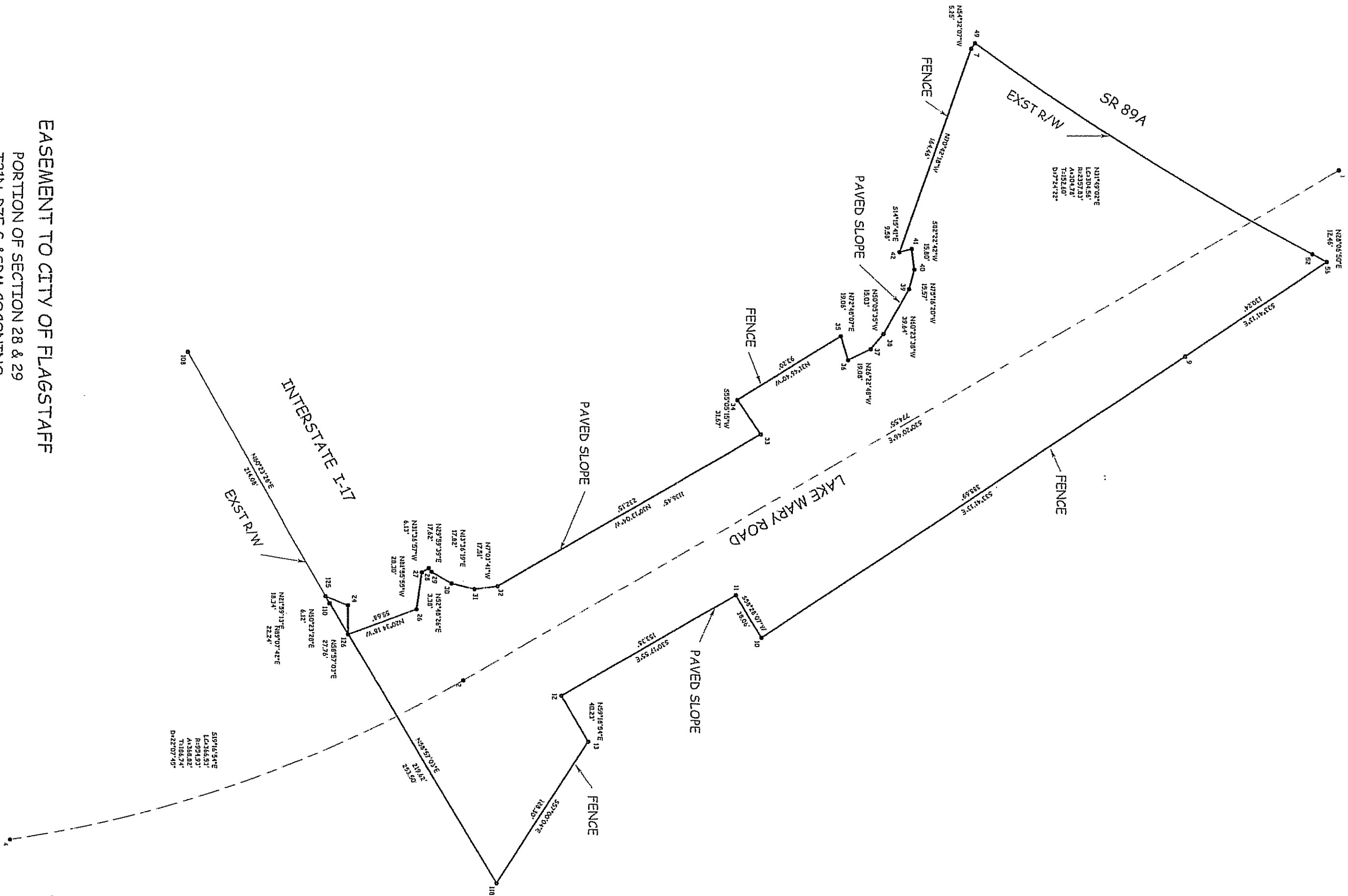


NOTE:  
THIS PLAN IS PREPARED FROM RIGHT OF WAY  
PLANS AND WILL NOT CONFORM WITH SOME  
PREVIOUS SURVEYS IN THE AREA.

DISPOSAL PARCEL  
SECTION 28, T21N, R7E G & SRM  
COCONINO COUNTY ARIZONA  
142,458 SQUARE FEET



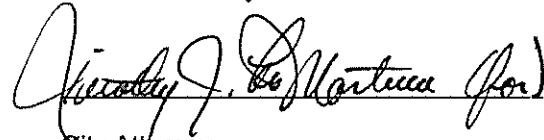
EASEMENT TO CITY OF FLAGSTAFF  
 PORTION OF SECTION 28 & 29  
 T21N, R7E 6 & SRM COCONINO  
 COUNTY ARIZONA  
 123,160 SQUARE FEET

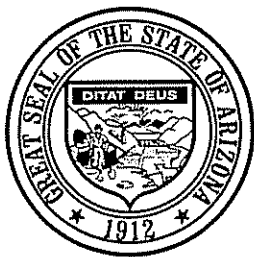


APPROVAL OF THE CITY OF FLAGSTAFF ATTORNEY

I have reviewed the above-referenced Intergovernmental Agreement between the DEPARTMENT OF TRANSPORTATION, INTERMODAL TRANSPORTATION DIVISION, and the CITY OF FLAGSTAFF, an agreement among public agencies which has been reviewed pursuant to A.R.S. section 11-951 through 11-954 and declare this Agreement to be in proper form and within the powers and authority granted to the CITY OF FLAGSTAFF under the laws of the State of Arizona. No opinion is expressed as to the authority of the State to enter into this Agreement.

DATED this 28<sup>th</sup> day of June, 2005.

  
City Attorney



ATTORNEY GENERAL  
CIVIL DIVISION  
TRANSPORTATION SECTION

MEMORANDUM

Jeffrey T. Murray  
Assistant Attorney General

Direct: (602) 542-8859  
Fax: (602) 542-3646

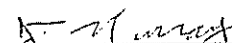
INTERGOVERNMENTAL AGREEMENT  
DETERMINATION

A.G. Contract No. KR04-1690TRN (**JPA 04-080**), an Agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the Undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining Parties, other than the State or its agencies, to enter into said Agreement.

DATED July 14<sup>th</sup>, 2005.

TERRY GODDARD  
Attorney General

  
\_\_\_\_\_  
JEFFREY T. MURRAY  
Assistant Attorney General  
Transportation Section

JTM:dgr  
Attachment  
914121